

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>T. RAWDON BEATY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No.: 2:05-880</b>
	)	
<b>MERCK &amp; CO., INC., a foreign</b>	)	
<b>Corporation, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**NOTICE OF CASE INCLUSION IN CONDITIONAL TRANSFER ORDER  
(CTO-26) OF JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

COMES NOW, Defendant Merck & Co., Inc. (“Merck”), and hereby notifies this Honorable Court that this case has been designated for transfer to the United States District Court for the Eastern District of Louisiana pursuant to Conditional Transfer Order (CTO-26) issued by the Judicial Panel on Multidistrict Litigation (JPML). Merck would further show the Court as follows:

1. On February 16, 2005, the JPML issued an order establishing MDL-1657 and transferring 148 federal Vioxx® cases to the Eastern District of Louisiana for coordinated pretrial proceedings before the Honorable Eldon E. Fallon. On or about September 15, 2005, Merck moved to stay this matter pending an applicable transfer order by the JPML. This motion was initially granted, but later withdrawn upon reassignment to this Court.

2. Merck provided notice to the Panel of this action pursuant to the tag-along procedures contained in the MDL rules. On October 6, 2005, the JPML issued Conditional Transfer Order 26 (CTO-26) consisting of numerous cases designated for transfer to MDL-1657. Attached hereto as **Exhibit A** is a copy of CTO-26.

3. This action is included in CTO-26. See CTO-26. Unless the Plaintiff objects to transfer within the period set forth by the JPML rules, this case against Merck will be immediately transferred to Judge Fallon's court, where it will become part of MDL-1657 and thus be subject to coordination of all pretrial proceedings. See CTO-26, Exhibit A.

4. Given the overlapping factual issues this case appears to have with those already in the MDL proceedings, transfer of this case to the MDL is appropriate. Merck therefore informs the Court of CTO-26 and its application to this case, and it urges this Court to grant its Motion to Stay all proceedings pending the transfer of this action to MDL-1657.

/s/ Austin Huffaker

R. AUSTIN HUFFAKER, JR. (ASB-3422-F55R)

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 10, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

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